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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

COALITION FOR HUMANE
IMMIGRANT RIGHTS, ET AL.,

No. CV 18-08034 GW (MRWx)

Plaintiffs,

SUPPLEMENTAL JOINT RULE 26(f) REPORT

V.

[F.R.C.P. 26(f) & L.R. 26-1]

Scheduling Conference
Date: July 11, 2019
Time: 8:30 a.m.

Honorable George H. Wu
United States District Judge

1 *Plaintiffs' counsel continued:*

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1 Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Central District
2 Local Rules, and the Court's June 21, 2019 Order (Docket No. 22), counsel for Plaintiffs
3 and Defendant held several telephonic conference calls and now submit the following
4 Joint Report in advance of the Scheduling Conference set for July 11, 2019, at 8:30 a.m.
5

6 **I. Timing and manner of release of requested records.**

7 Plaintiffs' position:

8 1. Index to records released or withheld:

9 Plaintiffs acknowledge receipt of the first FOIA release of approximately 500
10 pages of documents. The pages were released without an index or any indication what
11 documents respond to what requests. Plaintiffs request that Defendants produce an index
12 of documents released indicating what request(s) each document responds to. Plaintiffs
13 also request that for any responsive documents for which Defendant claims an
14 exemption, Defendant list the document in an index stating (i) the date of the document,
15 (ii) number of pages, (iii) author(s), (iv) recipient(s), (v) subject-line of the document
16 (unless the subject line is itself exempt in which case Defendant shall state the subject of
17 the document without disclosing exempt information), and (vi) the exemption(s)
18 claimed. Defendant should release all segregable portions of otherwise exempt
19 documents.

20 2. Timing of release

21 Plaintiffs see no reason why completing the search should take an additional six
22 months, nor do they agree to Defendant then limiting its release of documents to 500
23 pages a month. As Defendant has stated in a previous status report, at this pace even
24 Defendant cannot estimate how many months or years it may take Defendant to
25 complete its response to the FOIA request.

26 Twenty well-defined requests are included in the Plaintiffs' FOIA letter of August
27 6, 2018. As noted below, as requested by Defendant, Plaintiffs have made a good faith
28 effort to limit the scope of their FOIA requests. Over ten months have passed since the

1 FOIA request was submitted. The majority of documents sought are reports routinely
 2 prepared by Defendant regarding backlogs in processing naturalization applications and
 3 the basis for grants or denials of these applications. An appropriate search hardly
 4 requires an agency-wide search of thousands of employees' or applicants' files located
 5 throughout the country. The search should be completed in 60 days (in which case
 6 Defendant would have had a year to respond to the FOIA request), and all documents
 7 located by then should be immediately disclosed along with an explanation of why any
 8 located documents are being withheld, what if any locations remain to be searched, why
 9 they have not yet been searched, and when the search will be completed.

10 Defendant's Position:

11 The primary reason this request has taken so long to process is due to the
 12 complexity of the FOIA request at issue. Plaintiffs are requesting a vast amount of
 13 records which requires the assistance of numerous USCIS program offices throughout
 14 the agency in order to process this one FOIA request. USCIS FOIA staff are unable to
 15 personally access and review every potentially responsive source of agency records and
 16 must, therefore, rely on other program offices within USCIS to use their expertise and
 17 time, to search their particular office's records and databases and forward those records
 18 to the USCIS FOIA office at the National Records Center in Lee's Summit, Missouri, for
 19 review and processing.¹

20 To date, various USCIS program office have responded and forwarded to USCIS
 21 FOIA over 133 GB of potentially responsive records. This includes possibly millions of
 22 pages of records. This is a massive amount of records that must be personally reviewed
 23 by USCIS FOIA staff and processed according to FOIA. This task will consume an
 24 inordinate amount of time and resources. USCIS FOIA staff have been dutifully

25
 26 ¹ USCIS receives more FOIA requests than any other agency in the U.S.
 27 government and expects to receive over 200,000 FOIA requests this year. USCIS FOIA
 28 staff who are involved in processing Plaintiff's FOIA request are also responsible for
 processing many other FOIA requests and thus must carefully allocate their time. They
 cannot be devoted to processing one FOIA request full-time.

1 reviewing and processing responsive records.

2 On July 1, 2019, Defendant produced an initial 500 pages of unredacted records to
 3 Plaintiffs. Defendant proposes to continue processing 500 pages per month and
 4 releasing any responsive, non-exempt pages to the Plaintiffs on a monthly basis, until the
 5 production is complete.

6 However, Defendant maintains that unless the parties are able to agree to narrow
 7 the FOIA request at issue, it will take months to complete the processing. As a result,
 8 USCIS FOIA has been engaged with the Plaintiff in an attempt to narrow the scope of
 9 the records sought in order to more speedily, and efficiently, process and produce
 10 responsive records. Defendant requests additional time in order to continue meeting and
 11 conferring with Plaintiff in this effort, as the two sides remain far apart on some items of
 12 this FOIA request, namely Plaintiff's insistence that USCIS FOIA continue searching its
 13 local and regional offices as well for responsive records when it is most likely that
 14 responsive records would be maintained by USCIS headquarters level offices and that
 15 field and district level local agency office searches would largely be duplicative.

16 USCIS objects to creating a record just to respond to Plaintiff's FOIA request.
 17 Plaintiff requests that USCIS create an index describing its FOIA production in this case.
 18 This is creation of records, which is not required by FOIA, and underscores the complex
 19 nature of Plaintiff's FOIA request, a request so complex and onerous that Plaintiff
 20 expects USCIS to create a customized index of the records it is producing. USCIS
 21 declines to create a record in this fashion. Such a request goes beyond what FOIA
 22 requires of agencies. Further, it is premature to expect USCIS to produce a Vaughn
 23 index² describing each interim production and the bases for any FOIA exemptions

25 ² In FOIA cases, the agency will typically identify the withheld documents and the
 basis on which they are being withheld by submitting a declaration(s). In addition,
 26 where the adequacy of the agency's search is at issue, the agency relies upon
 27 declarations. These declarations or affidavits (singly or collectively) are often referred to
 28 as a Vaughn Index, after the case of Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973),
 cert. denied, 415 U.S. 977, 94 S.Ct. 1564 (1974). See also, Wiener v. FBI, 943 F.2d 927
 at 978, n.6 (9th Cir. 1991), cert. denied, 505 U.S. 1212 (1992) ("[w]e refer to these
 affidavits [of FBI agents and CIA officers] collectively as the Vaughn index").

1 applied. So far all records produced by USCIS FOIA have been unredacted, but based
 2 on the volume of records involved in this case, it is likely many will be at least partially
 3 redacted pursuant to FOIA exemptions. Defendants propose that any Vaughn index be
 4 submitted at the time of dispositive briefing and that pertains to the entire records
 5 production, once it is complete, rather than producing a Vaughn index piecemeal as the
 6 production continues, as this case will require a very lengthy rolling production of
 7 records unless the parties can agree to significantly narrow the scope of the records
 8 produced.

9

10 **II. Discussion of Individual Requests**

11 1. All documents that report to USCIS Headquarters and those generated by
 12 USCIS Headquarters on numbers of approvals and denials of N-400 naturalization
 13 applications including but not limited to data compilations that in any way provide the
 14 reasons for denials of N-400 naturalization applications.

15 Plaintiffs' Position:

16 Plaintiffs agree that Request 1 may be limited to searches within (1) USCIS's
 17 Headquarters (including the Executive Secretariat, the Field Operations Directorate
 18 (FOD), and the Office of Performance and Quality Management (OPQ)), (2) the
 19 National Benefits Center (NBC), and (3) the four USCIS Regional Offices (hereinafter
 20 "Responsive Components") for responsive records created between January 1, 2016, to
 21 October 2, 2018 (the date USCIS commenced its records search following receipt of
 22 Plaintiff's FOIA request). USCIS will not be required to search A-file records or produce
 23 records that pertain to any specific individual N-400 application.

24 Defendant's Position:

25 Request 1 specifically seeks "All documents that report to USCIS Headquarters
 26 and those generated by USCIS Headquarters..." Accordingly, a reasonable FOIA search
 27 for responsive records would be for USCIS to search its agency headquarters offices in
 28 Washington, D.C., for responsive records, which it has searched. Plaintiffs seek to

1 expand the scope of Request 1 to now include local and regional offices, e.g. the
 2 National Benefits Center (located in Lee's Summit, Missouri) and several regional
 3 offices. Defendant does not believe that FOIA requires that it conduct another search of
 4 local and regional offices when this item of the Plaintiffs' FOIA request specifically
 5 seeks documents that reasonably should be in the custody and control of USCIS
 6 headquarters offices such as the Office of the Executive Secretariat, Office of
 7 Performance and Quality, and the Field Operations Directorate. To the extent these
 8 agency headquarters offices have not already been searched for records responsive to
 9 Request 1, as described by Plaintiffs herein, Defendant can agree to conduct another
 10 search of the agency headquarters offices as described herein.

11 Defendant agrees that its search for responsive records for item 1 of Plaintiff's
 12 request will be for records created between January 1, 2016, and October 2, 2018 (the
 13 date USCIS commenced its records search following receipt of Plaintiffs' FOIA
 14 request). USCIS agrees that it will not be required to search Alien file (A-file) records or
 15 produce records that pertain to any specific individual N-400 application.

16 2. All documents compiling data submitted by one or more of the agency's
 17 locations processing or adjudicating N-400 naturalization applications or produced by
 18 USCIS Headquarters related to the volume of or reasons for RFEs ("Requests For
 19 Evidence") and NOI ("Notices of Intent to Deny") notifications issued in N-400 cases.

20 Plaintiffs' Position:

21 Plaintiffs agree that Request 2 may be limited to searches within the Responsive
 22 Components for responsive records created between January 1, 2016, to October 2, 2018
 23 (the date USCIS commenced its records search following receipt of Plaintiff's FOIA
 24 request). USCIS will not be required to search A-file records or produce records that
 25 pertain to any specific individual N-400 application. USCIS will search for data in the
 26 form of summary agency reports reporting numbers of N-400 applications received,
 27 numbers of N-400 RFE's issued, numbers of N-400 NOIDS issued, and reports re:
 28 primary reasons RFE's are issued on N-400 applications. USCIS will not be required to

1 search A-file records or records pertaining to any individual N-400 application.

2 Defendant's Position:

3 Request item 2 seeks records "submitted" by one or more agency "locations" that
4 process N-400 applications for naturalization. The USCIS agency "locations" that
5 process N-400 applications fall under the direction and management of USCIS Field
6 Operations Directorate (FOD), a program office within USCIS that is responsible for
7 managing agency adjudications of applications and petitions submitted to USCIS that
8 seek immigration benefits, including N-400 applications. Therefore, a reasonable
9 interpretation of Request 2 would be that USCIS FOIA search the headquarters office of
10 FOD for responsive records – records submitted to FOD headquarters by FOD's
11 subordinate offices - which it has done. Those records are currently being reviewed and
12 processed by USCIS FOIA staff.

13 Defendant agrees: (1) to continue processing FOD records that may be responsive
14 to this request; (2) will conduct additional records searches of FOD headquarters offices
15 in Washington, D.C., as necessary; and (3) will search the Offices of the Executive
16 Secretariat (the USCIS Director's office) in Washington, D.C., for any additional records
17 responsive to Request 2. USCIS reasonably believes that the agency offices described
18 herein are the most likely offices to have records responsive to Request 2.

19 3. All documents compiling data submitted by one or more of the agency's
20 locations processing or adjudicating N-400 naturalization applications or produced by
21 USCIS Headquarters related to the delay in processing N-400 applications.

22 Plaintiffs' Position:

23 Plaintiffs agree that this request may be limited to searches within the Responsive
24 Components for responsive records created between January 1, 2016, to October 2, 2018
25 (the date USCIS commenced its records search following receipt of Plaintiff's FOIA
26 request). USCIS will not be required to search A-file records or produce records that
27 pertain to any specific individual N-400 application.

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1 Defendant's Position:

2 Defendant believes a reasonable interpretation of Request 3, which seeks records
3 "submitted" by agency offices that process N-400 applications (which would be
4 subordinate FOD offices, as described in Request 2, above), would be to search FOD
5 headquarters offices in Washington, D.C., for responsive records. FOD headquarters
6 offices would be the most likely agency location that would receive "documents
7 submitted by one or more of the agency's locations processing...N-400 naturalization
8 applications." USCIS has already searched FOD headquarters offices for responsive
9 records and is currently reviewing and processing responsive records. To the extent
10 necessary, USCIS can agree to search FOD headquarters offices further for responsive
11 records.

12 USCIS agrees to search for data in the form of summary agency reports reporting
13 numbers of N-400 applications received, numbers of N-400 RFE's issued, numbers of
14 N-400 NOIDS issued, and reports re: primary reasons RFE's are issued on N-400
15 applications. USCIS agrees it will not be required to search A-file records or records
16 pertaining to any individual N-400 application.

17 4. All documents relating to funds allocated by Congress for the processing and/or
18 adjudication of N-400 applications.

19 Parties Joint Position:

20 USCIS has completed its search for records responsive to this item of Plaintiff's
21 request. USCIS asserts that there are no responsive records because Congress allocates
22 no funding to USCIS for adjudication of N-400's. USCIS asserts that it is fee-for-service
23 funded instead, and N-400 processing is not funded through Congressional
24 appropriations.

25 5. All documents compiling data that show the fees received with naturalization
26 applications, excluding documents relating to individual cases such as receipts, deposits,
27 etc.

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1 Plaintiffs' Position:

2 Plaintiffs agree that Request 5 may be limited to searches within USCIS's
3 Headquarters (including the Executive Secretariat, the Field Operations Directorate
4 (FOD), and the Office of Performance and Quality Management (OPC)) for data that
5 shows the amount of fees received by USCIS from N-400 applicants for fiscal years
6 2016 through fiscal year 2018 (Oct. 1, 2015 – Sept. 30, 2018).

7 Defendant's Position:

8 Defendant agrees to search the USCIS headquarters offices of the Executive
9 Secretariat, Field Operations Directorate and Office of Performance and Quality, in
10 Washington, D.C., for records responsive to Request 5. Defendant's search will be
11 limited to searching for agency statistical reports that compile data showing the amount
12 of fees received from N-400 applicants for the fiscal years (FY) specified in Plaintiffs'
13 position – FY's 2016, 2017, and 2018.

14 6. All documents regarding USCIS's allocation of funds to its various facilities
15 and field offices for the processing or adjudication of N-400 applications.

16 Plaintiffs' Position:

17 Plaintiffs agree that Request 6 may be limited to searches within USCIS's
18 Responsive Components for documents regarding USCIS's allocation of funds to its
19 various facilities and field offices for the processing or adjudication of N-400
20 applications for fiscal years 2016 through fiscal year 2018 (Oct. 1, 2015 – Sept. 30,
21 2018).

22 Defendant's Position:

23 USCIS FOIA understands that USCIS does not allocate funding to agency offices
24 based on a "per-application basis," meaning there is no funding allocated specifically for
25 N-400 adjudications. Accordingly, USCIS agrees to search the headquarters of FOD for
26 records showing the allocation of funding to subordinate FOD area and district offices
27 for the adjudication of immigration applications and petitions, which will include
28 adjudication of N-400 applications. USCIS will search for agency funding data, as

1 described, for FY's 2016, 2017, and 2018.

2 7. All documents relating in whole or in part to decisions by USCIS officials
3 regarding allocations of funds to the processing centers and field offices for the
4 adjudication of N- 400 applications.

5 Plaintiffs' Position:

6 Plaintiffs agree that Request 7 may be limited to searches within USCIS's
7 Responsive Components for documents relating in whole or in part to decisions by
8 USCIS officials regarding allocations of funds to the processing centers and field offices
9 for the adjudication of N- 400 applications for fiscal years 2016 through fiscal year 2018
10 (Oct. 1, 2015 – Sept. 30, 2018).

11 Defendant's Position:

12 Senior USCIS management officials are responsible for making decisions
13 regarding allocation of agency finances to USCIS processing centers (area and district
14 offices around the U.S.) that are responsible for adjudicating N-400 applications.
15 Accordingly, a reasonable FOIA search for records responsive to Request 7 would be for
16 USCIS FOIA to search senior agency manager's records, such as emails. USCIS agrees
17 to search the email records of the USCIS Director (or Acting Director) as well as its
18 Deputy Director (or Acting Director) and the Director (or Acting Director) of FOD for
19 records related to funding decisions for N-400 processing. USCIS FOIA will agree to
20 search for email records from these individuals that were created between January 1,
21 2016 (the date specified in Plaintiffs' FOIA request), and October 2, 2018, which was
22 the date USCIS FOIA commenced its records search upon receipt of Plaintiffs' FOIA
23 request.

24 8. All documents that address or concern delays or backlogs in the processing time
25 for naturalization applications.

26 Plaintiffs' Position:

27 Plaintiffs agree that Request 8 may be limited to searches within USCIS's
28 Responsive Components for documents that address or concern delays or backlogs in the

1 processing time for naturalization applications. In addition, Plaintiffs agree Defendant
 2 may limit its search of emails to the emails of the USCIS Director (or Acting Director),
 3 USCIS Deputy Director (or Acting Deputy Director), the FOD Director (or Acting FOD
 4 Director) and the FOD Deputy Director (or Acting Deputy Director) that were sent
 5 between March 1, 2017, to October 2, 2018, (“E-Mail Records”) by these individuals
 6 and that discuss delays or backlogs in the processing time for naturalization applications.

7 Defendant’s Position:

8 Request 8 is similar to the data sought by Plaintiffs in Request 3, which also
 9 sought USCIS records related to alleged delays in N-400 processing. Defendant’s
 10 response to Request 3, above, is incorporated by reference here. Defendant reasonably
 11 believes that Request 8 is subsumed by the USCIS records search relevant to Request 3.
 12 Further, it will be unreasonably burdensome for Defendant to search every agency
 13 employee’s records for “documents that address or concern delays or backlogs in the
 14 processing time for naturalization applications.” Such a search would necessarily entail
 15 searching every USCIS employee’s email records. As there are over 20,000 USCIS
 16 employees, that would be an unreasonably burdensome records search. Instead, senior
 17 USCIS agency managers would be the primary decision makers on issues regarding how
 18 USCIS should address concerns related to N-400 delays, and, as a result, would be
 19 reasonably likely to have such records. Therefore, Defendant agrees to limit its search to
 20 the emails of the USCIS Director (or Acting Director), USCIS Deputy Director (or
 21 Acting Deputy Director), the FOD Director (or Acting FOD Director) and the FOD
 22 Deputy Director (or Acting Deputy Director) that were sent between March 1, 2017, and
 23 October 2, 2018, and that discuss delays or backlogs in the processing time for
 24 naturalization applications.

25 9. To the extent not provided in response to Request Number 8, all data
 26 compilations and spreadsheets addressing in whole or in part delays or backlogs in the
 27 processing or adjudication of naturalization applications.

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1 Plaintiffs' Position:

2 Plaintiffs agree that Request 9 may be limited to searches within the Responsive
3 Components for responsive records created between January 1, 2016, to October 2,
4 2018. USCIS will not be required to search A-file records or produce records that pertain
5 to any specific individual N-400 application.

6 Defendant's Position:

7 Request 9 is duplicative of Plaintiffs' Requests 3 and 8, which also seek USCIS
8 records related to any delays or backlogs in N-400 processing. Defendant believes
9 Request 9 is subsumed by its response to Request numbers 3 and 8. Therefore,
10 Defendant's responses to Requests 3 and 8 are incorporated herein by this reference.

11 10. To the extent not provided in response to a separate request, all documents
12 reporting on: (a) the volume of naturalization applications received; (b) where the
13 applications were received; (c) where the applications were processed and adjudicated;
14 and (d) how long it took to fully process and adjudicate the naturalization applications.

15 Plaintiffs' Position:

16 Plaintiffs agree that Request 10 may be limited to searches within the Responsive
17 Components for (1) responsive records created between January 1, 2016, to October 2,
18 2018 and (2) Email Records as defined above. USCIS will not be required to search A-
19 file records or produce records that pertain to any specific individual N-400 application.

20 Defendant's Position:

21 Defendant agrees that it will search for email records responsive to Request 10
22 that were created by the USCIS Director (or Acting Director), USCIS Deputy Director
23 (or Acting Deputy Director), the FOD Director (or Acting FOD Director) and the FOD
24 Deputy Director (or Acting Deputy Director) and that were sent between March 1, 2017,
25 and October 2, 2018.

26 However, Defendant objects to also searching local and regional agency offices
27 for responsive records, as contemplated by Plaintiffs' definition "Responsive
28 Components" (see Plaintiff's Position for Request 1). USCIS FOIA staff reasonably

1 believes that all documents responsive to Request 10 will have been compiled by agency
2 headquarters staff, especially by such officials as the USCIS Director, Deputy Director
3 and FOD Director. A search of the email records of these senior officials is most likely
4 to locate responsive records that “report” on the volume of N-400 applications, where
5 they are received and processed, and the processing time. It would be inordinately
6 burdensome for USCIS FOIA staff to also have to search the records of individual
7 employees at the local and regional levels, as contemplated by Plaintiff’s request that
8 USCIS FOIA also search its “Responsive Components.”

9 11. All documents relating to inquiries from or responses to members of Congress
10 relating to the delays in processing N-400 applications.

11 Plaintiffs’ Position:

12 Plaintiffs agree Defendant may limit the search to the USCIS Office of Legislative
13 Affairs for records received from members of Congress between March 1, 2017, and
14 Oct. 2, 2018, that pertain to Congressional inquiries related to delays in N-400
15 processing.

16 Defendant’s Position:

17 Defendant concurs with Plaintiffs’ position regarding Request 11 and agrees to
18 limit its search for records responsive to Request 11 to the USCIS Office of Legislative
19 Affairs, as described by Plaintiffs, above.

20 12. All documents including but not limited to memoranda, guidance, instructions,
21 or directives issued to facilities, centers, or field offices discussing policy or procedures
22 to be followed in the processing or adjudication of N-400 applications.

23 Plaintiffs’ Position:

24 Plaintiffs agree that Request 12 may be limited to searches (1) within the
25 Responsive Components created between Jan. 1, 2016 and Oct. 2, 2018, and (2) Email
26 Records as defined above. Plaintiffs agree that Defendant will compile responsive draft
27 documents and provide Plaintiffs with a list of the draft documents for which an
28 exemption may be asserted including the documents’ dates, page lengths, author,

1 recipient(s), and subject matter as set forth in the document. Plaintiffs agree to meet and
 2 confer with USCIS about the production of any draft agency material Plaintiffs would
 3 like produced that pertains to the final agency documents described herein.

4 Defendant's Position:

5 Defendant agrees to search USCIS headquarters offices in Washington, D.C., such
 6 as the Office of the Executive Secretariat and FOD, for records responsive to Request
 7 12, as those offices are the most likely to maintain responsive records. However,
 8 Defendant objects to searching for responsive records at the agency's local and regional
 9 level, as defined by Plaintiff. *See* Defendant's response to Request 10. Agency guidance
 10 records, instructions and policies that are issued to agency field and district offices for
 11 adjudicating N-400 applications would necessarily emanate from USCIS headquarters
 12 and be disseminated to the agency's local offices. Therefore, a reasonable search for
 13 such records should be limited to the agency offices that promulgated that guidance in
 14 the first instance, necessarily, USCIS headquarters offices. A search of USCIS local and
 15 regional offices would be inordinately time and resource consuming, and largely,
 16 duplicative of the agency's search of its headquarters offices in Washington, D.C.

17 Further, USCIS agrees that it will limit its search of agency email records
 18 responsive to this item to the emails of the USCIS Director, Deputy Director and FOD
 19 Director, and any Acting Directors of such offices, that were sent between March 1,
 20 2017, and October 2, 2018.

21 Moreover, Defendant will search for final agency documents that reflect guidance,
 22 instructions, directives, etc., on N-400 processing, as that will be the operative "agency
 23 law" on this subject. However, USCIS agrees to also compile draft versions of this
 24 material and agrees to meet and confer at a later date with Plaintiffs over the production
 25 of draft versions of such agency guidance. USCIS FOIA has already conducted a search
 26 for responsive records and compiled thousands of pages of draft material that may
 27 largely be exempt from FOIA production, so Defendant proposes to first produce final
 28 versions of agency guidance material, as contemplated by Request 12, and discuss with

1 Plaintiffs the need to produce draft materials at a later date.

2 13. All documents and data compilations sent to or prepared by the Administrative
3 Appeals Office addressing the number of pending and decided appeals of denials of N-
4 400 applications and the outcome of those appeals. This request does not seek copies of
5 the individual appeals or decisions.

6 Plaintiffs' Position:

7 Plaintiffs agree that USCIS will search the USCIS Administrative Appeals Office
8 (AAO), for responsive records created by AAO between Jan. 1, 2016, and Oct. 2, 2018,
9 and USCIS will also search for any summary AAO reports on the outcome of AAO
10 appeals. Plaintiffs agree that USCIS is not required to search for A-file records or
11 produce any records that pertain to specific individual AAO appeals and adjudications.
12 The search will be limited to summary reports that do not include personally identifiable
13 information pertaining to individual N-400 applicants and appellants.

14 Defendant's Position:

15 Defendant concurs with Plaintiffs' position with regard to Request 13.

16 14. All documents sent to or prepared by USCIS regarding delays in naturalization
17 applications due to problems implementing or using the Electronic Immigration System
18 ("ELIS").

19 Plaintiffs' Position:

20 Plaintiffs agree that Request 14 may be limited to searches (1) within the
21 Executive Secretariat, the Field Operations Directorate (FOD), and the Office of
22 Performance and Quality Management (OPQ), created between Jan. 1, 2016 and Oct. 2,
23 2018, and (2) Email Records as defined above.

24 Defendant's Position:

25 Defendant concurs with Plaintiffs' position regarding Request 14. Insofar as
26 USCIS FOIA searches email records responsive to this item of Plaintiffs' request,
27 USCIS agrees to limit its search to the emails of the USCIS Director, Deputy Director
28 and FOD Director, and any Acting Directors of such offices, that were sent between

1 March 1, 2017, and October 2, 2018.

2 15. All documents and data relied upon in The Department of Homeland Security
3 Ombudsman 2017 Annual Report To Congress regarding the USCIS (at
4 <https://www.dhs.gov/sites/default/files/publications/OHS%20Annual%20Rep011%2020170.pdf>).
5

6 Plaintiffs' Position:

7 Plaintiffs agree that Request 15 may be limited to searches (1) within the
8 Executive Secretariat, the Field Operations Directorate (FOD), and the Office of
9 Performance and Quality Management (OPQ), created between Jan. 1, 2016 and Oct. 2,
10 2018, and (2) Email Records as defined above. Even if this request seeks records created
11 by another agency, USCIS is required to respond to the extent requested records are in
12 its possession.

13 Defendant's Position:

14 Request 15 of Plaintiff's FOIA request seeks records created by another agency.
15 USCIS has already referred this portion of the request to the DHS Ombudsman's office,
16 on July 1, 2019, for review and a direct response to Plaintiffs. USCIS has no authority to
17 search the offices of the DHS Ombudsman for responsive records nor does the FOIA
18 require that an agency search another agency for records responsive to a FOIA request.

19 16. All documents and data relied upon in The Department of Homeland Security
20 Office of Inspector General Report (OIG) "USCIS Has Been Unsuccessful in
21 Automating Naturalization Benefits Delivery," dated November 30, 2017 (at
22 <https://www.oig.dhs.gov/reports/2018/uscis-has-been-unsuccessful-automating-naturalization-benefits-delivery/oig-18-23>).
23

24 Plaintiffs' Position:

25 Plaintiffs agree that Request 16 may be limited to searches (1) within the
26 Executive Secretariat, the Field Operations Directorate (FOD), and the Office of
27 Performance and Quality Management (OPQ), created between Jan. 1, 2016 and Oct. 2,
28 2018, and (2) Email Records as defined above. Even if this request seeks records created

1 by another agency, USCIS is required to respond to the extent requested records are in
2 its possession.

3 Defendant's Position:

4 Request 16 seeks records created by another agency, the DHS Office of Inspector
5 General (OIG). Defendant refers the Court to its response to Request 15, above, and
6 likewise, USCIS FOIA has already referred Request 16 to the DHS OIG, on July 1,
7 2019, for review and a direct response to Plaintiff. USCIS has no authority to search the
8 DHS OIG for responsive records nor does FOIA require that USCIS search another
9 agency for records responsive to a FOIA request.

10 17. All complaints filed by naturalization applicants or those acting on behalf of
11 naturalization applicants regarding inappropriate, abusive, or discriminatory treatment of
12 naturalization applicants by USCIS employees.

13 Plaintiffs' Position:

14 Plaintiffs agree that Request 17 may be limited to searches (1) within the
15 Executive Secretariat, the Field Operations Directorate (FOD), and the Office of
16 Performance and Quality Management (OPQ), created between Jan. 1, 2016 and Oct. 2,
17 2018, and (2) Email Records as defined above. The Plaintiffs agree that USCIS is not
18 required to search A-files for responsive records.

19 Defendant's Position:

20 USCIS agrees that it is not required to search A-files for records responsive to
21 Request 17 and agrees to limit its search to the Executive Secretariat and FOD
22 headquarters in Washington, D.C. USCIS OPQ is not a USCIS agency program office
23 that would receive applicant complaints relating to any benefit adjudicated by USCIS,
24 including N-400's, so it would not be an efficient use of agency time and resources to
25 conduct a futile search of OPQ for records responsive to Request 17. The USCIS
26 headquarters offices of the Executive Secretariat and FOD would be the most reasonably
27 likely to maintain any responsive records, if they exist. Further, USCIS agrees that it will
28 limit email searches for records responsive to this item of Plaintiffs' request to the emails

1 of the USCIS Director, Deputy Director and FOD Director, and any Acting Directors of
2 such offices, that were sent between March 1, 2017, and October 2, 2018.

3 18. All documents related to a review, update, or revision of the USCIS Fee
4 Review Study described here:

5 <https://www.federalregister.gov/documents/2016/05/04/2016-10297/us-citizenship-and-immigration-services-fee-schedule>.

6 Plaintiffs' Position:

7 Plaintiffs agree that Request 18 may be limited to searches (1) within the
8 Executive Secretariat, the Field Operations Directorate, and the Office of Performance
9 and Quality Management, created between Jan. 1, 2016 and Oct. 2, 2018, and (2) Email
10 Records as defined above. The Plaintiffs agree that USCIS is not required to search A-
11 files for responsive records.

12 Defendant's Position:

13 Defendant concurs with Plaintiff's position regarding Request 18. Insofar as
14 USCIS FOIA searches email records responsive to Request 18, USCIS agrees to limit its
15 search to the emails of the USCIS Director, Deputy Director and FOD Director, and any
16 Acting Directors of such offices, that were sent between March 1, 2017, and October 2,
17 2018.

18 19. All documents relied upon, issued in response to, or to implement the change
19 in the mission of USCIS announced on February 22, 2018 described here:

20 <https://www.uscis.gov/news/news-releases/uscis-director-l-francis-cissna-new-agency-mission-statement>

21 Plaintiffs' Position:

22 Plaintiffs agree that Request 19 may be limited to searches (1) within the
23 Executive Secretariat, the Field Operations Directorate (FOD), and the Office of
24 Performance and Quality Management (OPQ), created between Jan. 1, 2016 and Oct. 2,
25 2018, and (2) Email Records as defined above.

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1 Defendant's Position:

2 Defendant concurs with Plaintiffs' position regarding Request 19. Insofar as
3 USCIS FOIA searches email records responsive to Request 19, USCIS agrees to limit its
4 search to the emails of the USCIS Director, Deputy Director and FOD Director, and any
5 Acting Directors of such offices, that were sent between March 1, 2017, and October 2,
6 2018.

7 20. All documents received by USCIS from the White House or forwarded by
8 USCIS to the White House regarding in whole or in part the processing or adjudication
9 of naturalization applications.

10 Plaintiffs' Position:

11 Plaintiffs agree that Request 20 may be limited to searches (1) within the
12 Executive Secretariat, the Field Operations Directorate (FOD), and the Office of
13 Legislative Affairs, created between Jan. 1, 2016 and Oct. 2, 2018, and (2) Email
14 Records as defined above.

15 Defendant's Position:

16 Defendant concurs with Plaintiffs' position regarding Request 20. Insofar as
17 USCIS FOIA searches email records responsive to Request 20, USCIS agrees to limit its
18 search to the emails of the USCIS Director, Deputy Director and FOD Director, and any
19 Acting Directors of such offices, sent between March 1, 2017, and October 2, 2018.

20 Defendant adds, however, that any White House created equity must be referred to the
21 White House for review and a response, as appropriate. USCIS agrees to limit its search

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1 for records created by USCIS that were sent to the White House, as described herein.

2 Respectfully submitted,

3 Dated: July 5, 2019

4 PETER A. SCHEY
CARLOS R. HOLGUIN
CENTER FOR HUMAN RIGHTS AND
CONSTITUTIONAL LAW

5 */s/ Peter A. Schey*

6 Attorneys for Plaintiffs

7 Dated: July 5, 2019

8 NICOLA T. HANNA
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9 DAVID M. HARRIS
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13 */s/ Alarice M. Medrano*

14 ALARICE M. MEDRANO
Assistant United States Attorney

15 Attorneys for Defendant, United States
16 Citizenship and Immigration Services,
17 Department of Homeland Security

1 CERTIFICATE OF SERVICE
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5 I, Laura Diamond, declare and say as follows:
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8 I am over the age of eighteen years of age and am a party to this action. I am
9 employed in the County of Los Angeles, State of California. My business address is 256
10 S. Occidental Blvd., Los Angeles, CA 90057, in said county and state.
11
12

13 On July 5, 2019 I electronically filed the following document(s):
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- 16 • SUPPLEMENTAL JOINT RULE 26(f) REPORT
17
18 with the United States District Court, Central District of California by using the
19 CM/ECF system. Participants in the case who are registered CM/ECF users will be
20 served by the CM/ECF system.
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15 /s/ Laura Diamond
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20 *Staff Attorney*